

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KEVIN EDWARD SAVAGE	:	CIVIL ACTION
	:	
v.	:	NO. 21-4612
	:	
CITY OF PHILADELPHIA, CORIZON	:	
HEALTH, C.O. SEARCY, and JOHN	:	
DOE	:	

ORDER

AND NOW, this 1st day of July 2022, having considered the incarcerated Plaintiff's Responses to our June 7, 2022 Order and Memorandum (ECF Doc. Nos. 26, 27) dismissing his earlier filed Complaints but granting him leave to proceed on his claims if he can plead a state actor's personal involvement in failing to protect him from injuries including a stabbing in the Philadelphia Prison System or identifying persons who interfered in securing recommended hand surgery necessitated by the stabbing, finding he now sufficiently pleads the personal involvement of Correctional Officer Searcy on the failure to protect claim, a John Doe on the failure to provide adequate follow-up medical care after a surgery recommendation, and the supervisory liability of the City of Philadelphia through its Prison System on a custom regarding the duty to protect and against the City and Corizon Health on a custom of not following recommended medical care, but not finding further allegations of personal or supervisory liability regarding the protection of incarcerated persons against Blanche Carney, Pierre Lacombe, Lt. Simmons, or Bruce Herdman, and for detailed reasons in the accompanying Memorandum, it is **ORDERED**:

1. We **dismiss** without prejudice:

a. Commissioner Blanche Carney, Deputy Warden Pierre Lacombe, Lt. Simmons, and Bruce Herdman in their official capacities and for individual liability claims as there is no pleading of individual involvement;

b. Corizon Health Systems, Commissioner Carney, Deputy Warden Lacombe, Lt. Simmons, or Bruce Herdman on supervisory liability theories;

2. Plaintiff **may proceed on his individual claim** of failure to protect against Correctional Officer Searcy and failure to provide recommended follow-up medical care against a John Doe employee;

3. Plaintiff **may proceed on his claim of supervisory liability**:

a. against the City of Philadelphia through the Philadelphia Department of Prisons for a custom regarding the duty to protect incarcerated persons; and,

b. against the City of Philadelphia through its Department of Prisons and Corizon Health for a custom of not following recommended medical care;

4. We **grant** Plaintiff's continuing request for counsel and the Clerk of the Court shall forthwith **refer** this matter to the **Prisoner Civil Rights Panel** seeking a volunteer attorney for appointment to represent Plaintiff:

a. The Clerk of the Court shall mail a copy of the Prisoner Civil Rights Panel Description to Plaintiff;

b. This matter shall remain on the Prisoner Civil Rights Panel for review by counsel until **August 5, 2022**;

5. **Service** of the summons and the second amended Complaint (ECF Doc. Nos. 28, 29) shall be made upon the City of Philadelphia, Corizon Health, and Correctional Officer Searcy by the U.S. Marshals Service at no cost to the Plaintiff under 28 U.S.C. § 1915(d);

6. Mr. Savage shall complete and return the USM-285 forms to the Clerk of Court as soon as possible to allow the U.S Marshal Service to timely serve the City of Philadelphia, Corizon Health, and Correctional Officer Searcy (including her full name). Failure to complete and return those forms by **July 29, 2022** may result in dismissal of this case;

7. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)”

8. Requests for court action must be made by a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure, Local Rules and our Policies are to be followed.

9. All parties including Mr. Savage must comply with Local Civil Rule 7.1 and serve and file a proper response to all motions under our Policies and Orders. Failure to do so

may result in dismissal. All parties are required to follow our Policies and Procedures in effect at the time of the anticipated action (“Policies”) and Default Order on Electronic Discovery found at www.paed.uscourts.gov;

10. All parties including Mr. Savage are specifically directed to comply with our Policies and Local Rule 26.1(f) which provides “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.”

11. Mr. Savage shall attempt to resolve any discovery disputes by contacting Defendant’s counsel directly by telephone or through correspondence;

12. The parties may have no direct communication with us. All relevant information and papers are to be directed to the Clerk of Court;

13. Mr. Savage (or his counsel if appointed) is solely responsible to ask the Clerk of Court to issue an alias summons if the U.S. Marshal is unable to effect service and to also provide the Clerk with Correctional Officer Searcy’s correct address, so service can be made; and,

14. The parties should notify the Clerk’s Office upon a change in their address. Failure to do so could result in Orders or other information not being timely delivered, which could affect the parties’ legal rights.



KEARNEY, J.